

August 17, 2007

Maine Milk Commission Special Meeting Minutes  
Deering Building, Room 233  
Augusta, Maine 04333

Notices for the August 17, 2007 meeting were distributed to Commission members, intervenors and other interested parties July 20, 2007 and sent to the Secretary of State's Office for posting on July 23, 2007.

**Commission Present:** Chair, Michael Wiers, Katherine O. Musgrave John Joseph Jr., Colon Durrell and Shelley Doak, *ex-officio*.

**Commission Absent:** None

**Department Officials:** None

**Staff Present:** Stan Millay, Executive Director, and Carol Gauthier, Office Associate.

**Legal Counsel:** Lucinda White and Amy Mills, Assistant Attorneys General.

**Intervenors Present:** John Blake, H.P. Hood, Inc., Tom Brigham Oakhurst Dairy and Julie-Marie Bickford Executive Director, Maine Dairy Industry Association (MDIA)

**Others Present:** Dale Cole, dairy farmer and President, MDIA, Fred Hardy, MDIA Robert Wellington, Agri-Mark Cooperative and Janet Leiter, Program Director DHHS/Maine WIC/Nutrition Program.

Meeting called to order at 1:35 p.m. by chair, Michael Wiers.

**Public Hearing** on Chapter 4, Market Areas opened for comment on proposal to identify the State of Maine as a natural market area thus eliminating the 48 different ones currently named. No comments were received and hearing closed at 1:37 p.m.

**Agenda Item 1: Minutes:** Katherine Musgrave made a motion to accept the minutes of the July 20, 2007 meeting as presented. Shelley Doak seconded. Motion passed 4-0.

**Agenda Item 2: Lucinda White, Assistant Attorney General:** Lucinda White reported that the Attorney General's Office is making some changes and introduced Amy Mills who will be assigned to the Milk Commission in her place. This will allow time for Amy to learn about the Commission while Lucinda is available to assist.

**Agenda Item 3: Minimum Prices:** Stan Millay reported that there is a prevailing premium of \$1.10/cwt on Class I for September 2007 reported by Dairy Marketing Services (DMS) and Agri-Mark Cooperative. In addition to this premium, both Agri-Mark and DMS reported that an additional \$0.75/cwt for milk that comes from producers who do not treat their cows with the rBST hormone will be in affect. Federal Order One Class I price for September is \$25.16.

There is a Farm Bill Counter Cyclical Payment (MILC) for September 2007 of \$0.00/cwt. Congress has reauthorized the MILC program at a reduced rate: (34% of \$16.94 minus the Class I Price).

Stan Millay explained that 5 different price schedules for September were prepared for comparison purposes using the information above plus a producer cost of production adjustment (COPA) of \$0.71/cwt., \$0.57/cwt.,

\$0.46/cwt. \$0.35/cwt. and \$0.15/cwt. He stated that these price schedules were for discussion purposes and that the Commission was not bound to them, and that the Commission should make their determination after hearing testimony.

Bob Wellington told the Commission that he believed that milk prices would peak in September then begin a slow downward trend. He said he expected prices to remain strong for the next 12 months.

Fred Hardy pointed out that eliminating the current \$0.71/cwt. COPA would only drop the minimum price a few cents per gallon and was nothing compared to the retail mark-up of well over \$1.00 per gallon.

Julie-Marie Bickford referred the Commission to the August price survey in their handouts and reminded them that there is still a huge gap between the Commission minimum retail price and the price being charged by supermarkets. She went to say that producers were receiving more money for their milk but that their costs were higher as well.

Dale Cole reminded the Commission that milk prices were higher but not too high. He stated that USDA market reports indicated that milk sales remained strong. He said that just because the stores push retail prices high was not a reason to reduce the producers pay.

Julie Marie Bickford expressed concern about articles in the Portland Press Herald that presented negative views of the dairy industry.

Katherine Musgrave asked Julie-Marie if there was anything the Commission could do to help.

Julie-Marie replied that the editorial board was not very receptive to the plight of the dairy industry in Maine and she said that she did not know of anything the Commission could do that would be effective.

Tom Brigham told the Commission that he was uncomfortable with the \$0.71/cwt. COPA. He said it was not justified. He said that it should be eliminated, but if that was not possible, then he would support a \$0.15/cwt. option.

Dale Cole told the Commission that he believed that each group of the dairy business, producers, processors and retailers should work together. He said that each time that milk prices went up, producers should not be the only ones expected to take cuts in pay. He said there was plenty of room to reduce the cost to the consumer by reducing the excessive retail mark-up.

Julie-Marie asked if processors sales were down due to the higher price of milk or if sales of the higher priced branded products were down compared to the cheaper store brands.

Both Tom Brigham and John Blake replied that they did not have information to determine an answer to that question.

Bob Wellington said that his company's sales dipped in June, with the big jump in prices, but within two weeks had recovered. He pointed out that retail prices in Massachusetts were about the same as they were in Maine.

Chairman Wiers stated that he agreed that all dairy sectors should work together. He stated that he believed that the Commission needed to consider the dairy industry as a whole and should make decisions that provide a balance to the industry. He pointed out that setting monthly minimum prices is a rulemaking action and that decisions of the Commission should be based on testimony received at the hearing. Having said that, he then asked the processors for specific evidence that would show how the cost of production adjustment adopted monthly by the Commission has a detrimental effect on Maine processors.

John Blake responded by saying that an outside of Maine store chain that does not have stores in Maine has dropped their milk prices so low that his company is being pressured to lower prices to other stores that compete with that chain.

Colon Durrell asked how the prices charged by these stores compared to the prices being charged in Maine and how that affected sales. Mr. Blake said that he did have that specific information.

Tom Brigham testified that the higher retail milk prices were affecting his company's sales. He said that he believed consumption is down due to those high prices and he said that he believed that the retail price was at or very near the point where consumers will switch from branded products like those packaged by his company to the cheaper priced store brands.

Chairman Wiers said the Commission had no authority over how far over the minimum price a retailer sets their price. He asked John Blake if that was also happening with his company.

Mr. Blake answered saying that they had a lot of pressure to lower prices outside of Maine to compete with the un-named outside of Maine store chain. He said that this could hurt their Maine processing plant.

Bob Wellington explained that a processing plant in New Hampshire could buy milk a little cheaper and thus might be able to compete better than a Maine based plant. He went on to say that the dynamics of pricing branded product well above the store brands was not unique to Maine. He pointed out that 2 of the 3 large processing plants in Maine were owned by companies that also owned other processing facilities outside of Maine. He said that those plants look at prices across their whole system and not just in Maine.

Tom Brigham said that in his company's case, they do not package large amounts of store brand milk so the current pricing schemes by retailers tended to hurt his volume which leads to a higher cost per unit processed. He said this could lead to lay-offs and loss of good paying Maine jobs.

Colon Durrell said he believed that the Commission needed to be aware of its impact on the milk industry in order to protect the milk supply for Maine consumers as directed by statute. He further stated that he did not believe that milk would be diverted due to a \$0.71/cwt. cost of production adjustment adopted by the Commission. He made a motion to adopt schedule #09-07 with a producer cost of production adjustment of \$0.71/cwt. with a \$25.16/cwt. Class I Price as announced by Federal Northeast Milk Market Administrator, plus \$1.85/cwt. as prevailing in neighboring states, plus \$0.00/cwt. for a handling fee and plus a \$0.20/cwt. processor assessment, for a total dealer Class I cost of \$27.92/cwt. Katherine Musgrave seconded.

Chairman Wiers stated that he was not sure from the answers to his question about how the cost of production adjustment affected Maine processors, so he would support the motion.

Motion passed 4-0.

**Agenda Item 4: Maine Monthly Price Survey:** The Commission reviewed the Maine price survey for August 2007 which included prices for Augusta and Bangor. The IAMCA milk price survey for July was not available.

**Agenda Item 5: Next Scheduled Meetings:**

- September 21, 2007, Friday 1:30 p.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME

- October 19, 2007, Friday 1:30 p.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- November 26, 2007, Monday 9:00 a.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- December 21, 2007, Friday 1:30 p.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- January 15, 2008, Tuesday 10:30 a.m. Agriculture Trade Show, Augusta Civic Center
- January 18, 2008, Friday 1:30 p.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME

**NOTE:** The November meeting is changed to Monday the 26<sup>th</sup> because the advanced prices for December will not be released until after 2:00 p.m. on the 23<sup>rd</sup> because of the Thanksgiving holiday.

**Agenda Item 6: Other:**

1. **Milk Commission Budget:** The Commission budget was not available.
2. **Retail Margins:** Stan Millay reported that the University of Maine continues gathering information that will be used to determine new retail margins.
3. **IAMCA Meeting in August:** Stan Millay reported that the meeting went well and was well received by the attendees. The Commission thanked all of those who had worked on this event.
4. **Chapter 4 Market Areas:** Stan Millay reported that there is a ten day comment period from today's hearing date. Chapter 4 will be reviewed and the proposed revisions will be voted on at the September meeting.
5. **Whole Foods Minimum Price Violations:** The Commission reviewed the letter that was sent to the Whole Foods store in Portland outlining details of two violations of Maine's minimum milk price law and asking for a plan for future compliance. Stan Millay provided a copy of the response saying that the y had put a plan into place that should avoid future violations. The store will be added to the e-mail distribution list of monthly milk prices.

**Agenda Item 7: Executive Session:** The Commission did not go into Executive Session.

**Adjourned:** 2:37 p.m.

Stanley Millay, Executive Director, Maine Milk Commission.